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**SOAH DOCKET NO. 473-24-04312
PUC DOCKET NO. 54614**

APPLICATION OF EL PASO ELECTRIC	§	
COMPANY FOR APPROVAL OF TEXAS	§	BEFORE THE STATE OFFICE OF
ELECTRIC VEHICLE-READY PILOT	§	ADMINISTRATIVE HEARINGS
PROGRAMS AND TARIFFS	§	

**EL PASO ELECTRIC COMPANY’S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS**

El Paso Electric Company proposes the following Findings of Fact, Conclusions of Law and Ordering Paragraphs for this proceeding:

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. El Paso Electric Company is a Texas corporation registered with the Texas secretary of state under filing number 1073400.
2. El Paso Electric owns and operates for compensation in Texas facilities and equipment to produce, generate, transmit, distribute, and sell electricity within its certificated service area.
3. El Paso Electric is required under CCN number 30050 to provide service to the public and retail electric utility service within its certificated service area.

Application

4. On January 31, 2023, El Paso Electric filed an application for approval of its Texas Electric Vehicle (EV)-Ready Pilots Programs and Tariffs.
5. In Order No. 2 filed on March 3, 2023, the administrative law judge (ALJ) found the application sufficient.
6. On August 24, 2023, the Commission issued its Order Requesting Update and directed that, in light of Senate Bill 1002, El Paso Electric must file a statement by September 23, 2023, regarding whether it intends to amend its application; withdraw or refile its application; or proceed with its application as filed.
7. On September 22, 2023, El Paso Electric filed its application amendment.

Notice

8. On January 31, 2023, El Paso Electric provided the application to each municipal regulatory authority with original jurisdiction over El Paso Electric's retail rates.
9. On March 9, 2023, El Paso Electric provided the notice via email to all parties in Docket No. 52195, El Paso Electric's last base rate proceeding, as well as parties who participated on the EV-related issues in Docket No. 53719, Entergy Texas, Inc.'s then-pending base rate proceeding.
10. On March 17, 2023, El Paso Electric filed the affidavit Curtis Hutcheson, Manager of Regulatory Case Management for El Paso Electric's Regulatory Affairs Department, attesting to the provision of notice to municipalities and to parties to Docket Nos. 52195 and 53719.
11. El Paso Electric published notice of the application once each in the following newspapers having general circulation in El Paso Electric's service territory (El Paso, Hudspeth, and Culberson counties): the El Paso Times on March 7, 2023; the Hudspeth Herald on March 10, 2023; and the Van Horn Advocate on March 9, 2023.
12. Notice of the filing was published once, on March 8, 2023, in El Diario, a Spanish-language newspaper having general circulation in El Paso County
13. On March 17, 2023, El Paso Electric filed affidavits attesting to the publication of notice of the application.
14. In Order No. 2 filed on March 3, 2023, the ALJ found the proposed notice of the application sufficient.

Intervenors

15. In Order No. 3 filed on March 23, 2023, the ALJ granted the motions to intervene filed by City of El Paso, ChargePoint Inc., and the Office of Public Utility Counsel (OPUC).
16. In Order No. 5 filed on September 12, 2023, the ALJ granted the motion to withdraw of ChargePoint, Inc.
17. In SOAH Order No. 2 on November 21, 2023, the ALJ granted the motions to intervene filed by ev.energy Corp.

Municipal Proceedings and Appeals of Municipal Actions

18. On January 31, 2023, El Paso Electric provided a copy of the application to each incorporated municipality in its Texas service area that retains original jurisdiction over its rates and services.
19. On April 13, 2023, El Paso Electric appealed to the Commission the actions of the Village of Vinton.
20. In Order No. 4 filed on June 8, 2023, the ALJ consolidated the appeals of the actions of the Village of Vinton with this proceeding.

Statements of Position and Testimony

21. On January 31, 2023, El Paso Electric filed the direct testimonies of George Novela, El Paso Electric Director of Economic and Rate Research; Angelina Rodriguez, El Paso Electric Supervisor of Electrification; and Manuel Carrasco, El Paso Electric Manager of Rate Research.
22. On September 22, 2023, El Paso Electric filed the supplemental direct testimonies of Ms. Rodriguez and Mr. Carrasco.
23. On February 20, 2024, the following parties filed direct testimony: ev.energy and OPUC.
24. On February 20, 2024, the City of El Paso filed a Declaration of Rate Case Expenses in support of the city's expenses in this proceeding as of the date of the declaration.
25. On February 27, 2024, Commission Staff filed the direct testimony of Adrian Narvaez, an analyst in the Commission's rate regulation division.
26. On March 12, 2024, ev.energy filed cross-rebuttal testimony.
27. On March 12, 2024, El Paso Electric filed the rebuttal testimony of Mr. Novela, Ms. Rodriguez, and Mr. Carrasco.

Referral to SOAH for Hearing

28. On November 2, 2023, the Commission referred this docket to SOAH and filed a preliminary order specifying issues to be addressed in this proceeding.
29. In SOAH Order No. 4, filed on January 12, 2024, the SOAH ALJ provided notice of a hearing on the merits set for 9:00 a.m. on April 2, 2024 via Zoom videoconference.
30. The hearing on the merits convened and concluded on April 2, 2024.
31. At the hearing on the merits, the parties introduced their pre-filed testimony and other

materials into evidence.

32. On April 18, 2024, parties filed initial briefs.

33. On May 2, 2024, parties filed reply briefs.

Overview of Proposed Pilot Programs

34. El Paso Electric projects that it will be serving approximately five MW of EV load by the end of 2025 and that the number of EVs and EV load will increase by approximately six-fold between 2025 and 2030 and by approximately 12-fold between 2025 and 2035.

35. Taking a proactive role in preparing for transportation electrification now - while EV adoption remains relatively low - is important for El Paso Electric to ensure that EV adoption is integrated efficiently with the grid.

36. El Paso Electric proposed four pilot projects related to EV growth in its Texas service area. Participation in each program is voluntary. At a very high level, the four pilot project programs can be summarized as follows:

- The EV Smart Rewards Pilot Program is a managed EV-charging program for residential customers.
- The Whole House EV Pilot Incentive Credit Rider encourages overnight EV charging, midnight to 8:00 am, by providing residential EV owners with an incentive credit on their bill for overnight electricity use.
- The PowerConnect Pilot Program is a credit rebate program for non-residential customers that supports utility-side-of-the-meter infrastructure related to EV charging.
- The Take Charge TX Pilot Program is a charging-as-a-service-agreement-based program for non-residential customers that supports, among other things, customer-side-of-the-meter infrastructure for EV charging.

37. In Senate Bill 1002, as reflected in PURA¹ § 42.0101, the legislature found that (a) encouraging investment in the deployment of public electric vehicle charging stations is essential to foster the rapid installation and widespread use of public electric vehicle charging stations on property whose owners or tenants desire to install public electric vehicle charging stations and (b) electric utilities, transmission and distribution utilities,

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

competitive entities, and the commission have important roles to fill in supporting the installation and use of infrastructure for electric vehicle charging.

38. The PowerConnect and Take Charge TX Pilot Programs would help carry out the legislative goals stated in Senate Bill 1002.
39. Effective management of EV incremental load can result in downward pressure on electricity rates because incremental loads occurring during those times when there is available capacity in El Paso Electric's system, between late evening and early morning hours, has the potential to improve El Paso Electric's system load factor.
40. While El Paso Electric's existing rates encourage off-peak EV charging to some extent, the proposed pilot projects such as the WHEV Pilot Incentive Credit Rider and the EV Smart Rewards Pilot Program will provide further incentives to encourage off-peak EV charging.
41. The proposed pilot programs would enable El Paso Electric to obtain information and experience with the growing EV load and growing number of EV customers in its service area.

Smart Rewards Pilot Program

42. The EV Smart Rewards Pilot Program is a managed EV-charging program. Under the proposed program, El Paso Electric would provide incentives to residential customers for enrolling and participating in the program to allow El Paso Electric to schedule at least 80% of their monthly charging each month during off-peak periods.
43. This program will help provide El Paso Electric with information and experience regarding customers' acceptance of utility-managed EV charging and the efficiency of such programs to optimize the use of existing infrastructure and minimize the required investment in additional infrastructure.
44. The pilot program will help El Paso Electric determine the appropriate incentive levels for any future managed-charging program.
45. The proposed incentive levels for enrollment were based on the median levels identified in a survey of forty managed charging programs in other states across the country and are consistent with the incentives levels initially offered by El Paso Electric in its smart thermostat program. The proposed event incentives were based on input from the project

vendor selected to assist in operating the program.

46. The purpose of the incentives is to encourage participation, and it is appropriate to set the incentives at levels the utility can reasonably expect to elicit the desired behaviors.
47. The proposed incentive levels for this pilot program are reasonable.
48. The budget for the EV Smart Rewards Pilot Program is \$804,947. El Paso Electric is not seeking cost recovery in this proceeding but may seek recovery of actual program costs in a future rate proceeding.
49. In consideration of El Paso Electric's EV load projections and its incremental cost of capacity, the proposed budget is reasonable. However, the reasonableness of any costs actually incurred in the pilot program and sought for cost recovery in the future would be reviewed if presented in a future proceeding, and any such request for recovery of the pilot program costs would be subject to applicable ratemaking laws and rules.
50. El Paso Electric's proposed limitations on the Smart Rewards pilot, including its two-year duration, limitation to 880 customers, the proposed budget, and the tracking and accounting for the pilot costs are appropriate and sufficient conditions to ensure that Texas customers who have not subscribed to the pilot program are not unreasonably affected by approval of the application.
51. The proposed Schedule No. EVRS – EV Smart Rewards Pilot Program included as Exhibit AR-4 to the direct testimony of Ms. Rodriguez is reasonable and should be approved.

Whole House EV Pilot Incentive Credit Rider

52. The Whole House EV (WHEV) Pilot Incentive Credit Rider would provide a credit on the bills of residential EV-owner customers for their electricity use from midnight to 8 am. The purpose of the credit is to encourage EV charging during hours of low demand on the system.
53. El Paso Electric currently has a few rate schedules or options that could mitigate the costs of EV charging for customers, but there are challenges for customers to use these rate options.
54. El Paso Electric's current Schedule No. 01 – Residential Service includes three monthly rate options: Standard Service, Alternative Time of Day (TOD), and Demand Charge TOD.

55. The Standard Service Rate option is selected by most customers and consists of a monthly customer charge and a seasonal, inclining two-block energy charge.
56. The Alternative TOD Rate is an optional rate that consists of a monthly customer charge and energy charges that apply based on the day and time that usage occurs. The peak energy charge applies from 12:00 P.M. to 6:00 P.M. weekdays during the summer season, and the off-peak energy charge applies during all other hours of the year. The on-peak energy charge is more than three times the off-peak energy charge.
57. The Demand Charge TOD Rate is another optional rate that consists of a monthly customer charge, a demand charge, and energy charges that apply based on the day and time that usage occurs. The on-peak energy charge is almost four times the off-peak energy charge.
58. A residential EV-owner customer could expect to see an average increase in their monthly usage of 319 kWh because of EV charging. By comparison, based on recent data, a typical residential customer consumed a year-round monthly average of 681 kWh.
59. Under the Standard Service Rate option of Schedule No. 01, the incremental 319 kWh for EV charging will add \$46.11 to the average residential monthly bill. Under the Alternative TOD Monthly Rate option, and if all charging is done during the off-peak hours, the incremental cost is \$36.66; a savings of \$9.45 from the Standard Service Rate. Those savings diminish rapidly, however, if any charging is done during on-peak hours.
60. El Paso Electric's Schedule No. EVC (Electric Vehicle Charging) is designed for EV charging and was initially approved in Docket No. 44941 and was approved again in El Paso Electric's most recent base rate case, Docket No. 52195. The rate schedule is available, on a voluntary basis, to residential and commercial customers that have a separately metered facility dedicated solely for the charging of electric vehicles. The schedule's rates and rate structure provide customers with price incentives to encourage the charging of electric vehicles during off-peak periods and dissuade customers from charging during summer on peak periods, when El Paso Electric's generation system experiences its peak loads.
61. The typical incremental load of EV charging under Schedule No. EVC for a residential EV-owner customer costs \$21.01 per month. That monthly cost is about \$25 and \$16 less than

the additional cost for the same incremental load billed under the Schedule No. 01 Standard and Alternative TOD rate options, respectively.

62. El Paso Electric encourages EV-owner customers to consider selecting Schedule No. EVC, but, if Schedule No. EVC is not a practical option for the customer due to the cost of in-home wiring needed to support the additional meter required to take service under the rate schedule, then EV-owner customers are encouraged to sign up for service under a TOD rate option.
63. Personal or business circumstances may not allow some customers to take service under a TOD rate option. For example, although a customer can charge their EV during overnight hours, that customer may not be able to shift non-EV charging consumption (such as air conditioning) to off-peak hours. A TOD rate option could potentially result in a significant increase in monthly electricity costs due to the electricity consumption during on-peak hours which the customer was unable to reduce or shift to the off-peak hours.
64. The WHEV Pilot Incentive Credit Rider offers an incentive to charge from midnight to 8 am to residential EV-owner customers that cannot fully benefit from Schedule No. EVC or Schedule No. 01's TOD rate option.
65. Under the proposed WHEV Pilot, the customer (1) avoids the cost of having a second meter installed on their premises that is required to take service under Schedule No. EVC and (2) saves on their monthly electric bill if they charge their EVs during the overnight hours.
66. The proposed incentive benefits El Paso Electric's other customers by helping diminish the impact of EV charging on system peak demand.
67. El Paso Electric calculated the credit based on its incremental capacity cost and on load data for the residential rate class.
68. While the combination of the El Paso Electric's Schedule No. 01 energy charge for residential customers and the proposed WHEV incentive credit will result in a lower, net energy charge for each kWh consumed during the Super Off-Peak Period, the net energy charge will not be less than marginal cost, that is, not less than the residential rate class's variable operation and maintenance unit cost.
69. El Paso Electric will reevaluate the credit rate and participation in its next general rate case

filing.

70. El Paso Electric projects that no material level of costs will be incurred for this pilot program.
71. The expected immaterial costs of the WHEV Pilot in conjunction with El Paso Electric's proposed limitations on the program, including that qualifying accounts must provide proof of EV registration annually, and El Paso Electric's proposal to reevaluate the credit rate and participation in its next general rate case filing are appropriate and sufficient conditions to ensure that Texas customers who have not subscribed to the pilot are not unreasonably affected by approval of the application.
72. The proposed Schedule No. WHEV – Whole House EV Pilot Incentive Credit Rate Rider included as Exhibit MC-3 to the direct testimony of Mr. Carrasco is reasonable and should be approved.

PowerConnect Pilot Program

73. The PowerConnect Pilot Program supports utility-side make-ready infrastructure by providing credit rebates for commercial customers who are installing EV charging infrastructure on their premises to help reduce the upfront cost of upgrades or improvements to El Paso Electric's distribution system that are required to support service to the EV charging infrastructure.
74. The PowerConnect Pilot will offer a rebate credit to help reduce or offset utility-side infrastructure costs of improvements to the distribution system up to the utility meter that are needed to support the customers' EV charging equipment. Ineligible equipment includes customer-side equipment.
75. The goal of the pilot is to be complementary to other available federal programs created through the Infrastructure Investment and Jobs Act, such as the National Electric Vehicle Infrastructure program for installation of charging stations by Texas DOT and the Clean School Bus program administered by Environmental Protection Agency.
76. Encouraging investment in the deployment of public EV charging stations, as this pilot would do, is also consistent with the legislative goals stated in PURA § 42.0101(b).
77. Program enrollments will be processed on the first-come, first-serve basis and will

terminate after two years unless extended in a future proceeding.

78. The maximum available rebate credit amounts per site were determined using El Paso Electric's infrastructure upgrade cost estimates from similar EV charging infrastructure project requested by El Paso Electric customers and are consistent with incentives seen in other utilities' programs.
79. No more than 20% of the overall PowerConnect Pilot Program budget will be available to any one entity.
80. The budget for the pilot program is \$3,095,950. El Paso Electric is not seeking cost recovery in this proceeding but may seek recovery of actual program costs in a future rate proceeding.
81. Through the PowerConnect Pilot, El Paso Electric proposes to subsidize the costs of make-ready infrastructure but does not in this proceeding seek recovery of the costs of the subsidies through rates or charges for services provided by the electric utility's regulated services under PURA § 42.0103(d).
82. The distribution system upgrades or improvements referenced in the PowerConnect Pilot tariff qualify as make-ready infrastructure as defined in PURA § 42.0102(6).
83. Under the PowerConnect Pilot, El Paso Electric will not provide electric vehicle charging service to the public as defined in PURA § 42.0102(4).
84. Under the PowerConnect Pilot, El Paso Electric will not own or operate any public electric vehicle charging stations as defined in PURA § 42.0102(7).
85. El Paso Electric's proposed limitations on the pilot, including its two-year duration, the proposed budget, and the tracking and accounting for the pilot costs are appropriate and sufficient conditions to ensure that Texas customers who have not subscribed to the pilot program are not unreasonably affected by approval of the application.
86. The proposed Schedule No. PC – PowerConnect Pilot Program included as Exhibit AR-2S to the supplemental direct testimony of Ms. Rodriguez is reasonable and should be approved.

Take Charge TX Pilot Program

87. The Take Charge TX Pilot Program would allow El Paso Electric to enter an agreement

- with a commercial customer to provide services to support EV charging stations on the customer side of the meter. Under the proposed program, the customer can choose the desired EV infrastructure and equipment that could be purchased, installed and operated by El Paso Electric, in whole or part, including a fully turnkey solution, to mitigate the challenge of managing EV charging stations installation and maintenance for the customer.
88. The Take Charge TX Pilot would allow a commercial customer to enter an agreement with El Paso Electric under which El Paso Electric may own or operate a public electric vehicle charging station on the person's property.
 89. The Take Charge TX Pilot will be open to customers who take service under certain non-residential rate schedules including general service, small general service, large power, city and county service.
 90. The program would be open to new customers for two years only.
 91. Participating customers will be responsible for the full cost of the equipment and services provided during the term of the pilot program agreement.
 92. Participants will pay a monthly fixed fee to El Paso Electric for the recovery of infrastructure and equipment costs over a customer-selected repayment term (between 1 year and 10 years) as well as operations and maintenance costs over the 10-year customer agreement term. The fee will enable El Paso Electric to recover the full cost of the equipment and services provided to the customer and avoid financial impact to El Paso Electric's non-participating customers.
 93. During the term of the agreement, El Paso Electric will be responsible for equipment maintenance and operations to ensure EV equipment continues to be operable.
 94. El Paso Electric is proposing a 10-year expected life of the EV Charging equipment for depreciation purposes. At the end of that expected life, the Company will choose to either remove or abandon in place such equipment.
 95. El Paso Electric will have a list of prequalified suppliers for both EV charging manufacturers and third-party installers. Customers will have a flexibility to choose the equipment and vendor that meets their needs. However, El Paso Electric will have the right to reject projects based on reliability concerns or unreasonable costs.

96. All marketing and educational materials for the Take Charge TX Pilot will be vendor neutral.
97. Participating customers will be responsible for setting a pricing policy for EV charging stations on their premises.
98. The budget for the Take Charge TX Pilot is \$7,382,650. The full actual costs of the pilot will be paid by participating customers.
99. Costs associated with Schedule No. TCTX will only be charged to those customers that voluntarily elect to enroll in the Take Charge TX Pilot. To ensure this, El Paso Electric will maintain separate accounting of all infrastructure and equipment costs associated with Schedule No. TCTX through the implementation of subaccounts to track and remove direct and allocation of indirect costs from its determination of ratepayer revenue requirements in general rate cases.
100. El Paso Electric's accounting assumptions and proposed accounting treatment under this program are reasonable.
101. The Take Charge TX Pilot complies with the requirements of PURA § 42.0103(o) regarding site hosting agreements as follows:
 - a) A person who is not an electric utility or an affiliate will be able to enter an agreement with El Paso Electric to own or operate a public electric vehicle charging station on the person's property.
 - b) El Paso Electric will not be providing electric vehicle charging service to the public.
 - c) El Paso Electric will not brand or market the public electric vehicle charging station as owned or operated by the utility, including by presenting the utility's name, logo, or any other distinguishing mark to indicate that the utility owns or operates the public electric vehicle charging station.
 - d) The contracting customer will solely determine the physical access to and use of the public electric vehicle charging station necessary to carry out responsibilities associated with ownership and operation of the public electric vehicle charging station; and prices for the electric vehicle charging service.
 - e) The contracting customer will pay for all electric utility-related costs under the

proposed tariff, and the tariff will provide for full recovery of the costs of the public electric vehicle charging station from the contracting customer, including incremental revenues paid by the contracting customer to the utility associated with the electric vehicle charging service.

102. El Paso Electric will offer service under the terms of the tariff to other persons seeking agreements in the El Paso Electric's service area on a nondiscriminatory basis under PURA § 42.0103(p)(1).
103. The revenue collected by El Paso Electric under each agreement with a participating person will allow the utility to recover the costs of owning, constructing, financing, operating, and maintaining the public electric vehicle charging station from the person and not the utility's other customers under PURA § 42.0103(p)(2).
104. The proposed Schedule No. TCTX – Take Charge TX Pilot Program included as Exhibit MC-1S to the supplemental direct testimony of Mr. Carrasco is reasonable and should be approved.

Rate Case Expenses

105. The expenses included in the City of El Paso's Declaration of Rate Case Expenses are reasonable.
106. El Paso Electric may seek recovery of its own rate case expenses for this proceeding and any subsequent expenses of the City of El Paso in a future rate proceeding.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. El Paso Electric is a public utility as that term is defined in PURA § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).
2. The Commission has authority over this matter under PURA §§ 14.001, 32.001, 36.101 through 36.111 and 42.0103.
3. SOAH exercised jurisdiction over the proceeding under PURA § 14.053 and Texas Government Code §§ 2003.021 and 2003.049.
4. The application is sufficient under 16 Texas Administrative Code (TAC) § 22.75(d).
5. El Paso Electric provided adequate notice of the application in accordance with 16 TAC § 22.55.

6. The hearing on the merits was set, and notice of the hearing was provided, in compliance with PURA and Texas Government Code §§ 2001.051 and 2001.052.
7. The Commission processed this docket in accordance with the requirements of PURA, the Administrative Procedure Act,² and Commission rules.
8. The rates approved by this Order are just and reasonable under PURA § 36.003(a).
9. In accordance with PURA § 36.003(b), the rates established by this Order are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each class of customer.
10. The PowerConnect Pilot complies with PURA § 42.0103(d).
11. The Take Charge TX Pilot complies with PURA §§ 42.0103(o) and (p).

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the application, including each of the four proposed pilot programs, to the extent provided in this Order.
2. Within ten days of the date this Order, El Paso Electric must file a clean copy of each of the four proposed pilot project tariffs with Central Records to be marked Approved and filed in the Commission's tariff book.
3. The Commission denies all other motions and any other requests for general or specific relief that the Commission has not expressly granted.

Respectfully submitted,



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² Administrative Procedure Act, Tex. Gov't Code §§ 2001.001-.902.

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**ATTORNEYS FOR EL PASO ELECTRIC
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CERTIFICATE OF SERVICE

I certify that on April 18, 2024 a true and correct copy of this document was served on all parties of record by electronic service consistent with the Commission's Second Order Suspending Rules filed on July 16, 2020 in Project No. 50664.

A handwritten signature in black ink, appearing to read 'CWA FB MA', written over a horizontal line.

Everett Britt